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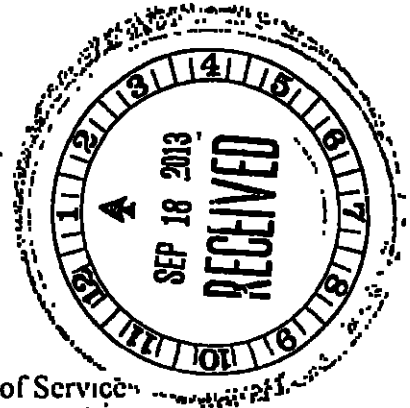
Oakmont, PA 15139

September 13, 2013

ENTERED
Office of Proceedings

SEP 18 2013

Part of
Public Record



The Honorable Cynthia T. Brown, Chief
Section of Administration
Surface Transportation Board
395 E Street, SW, Ste 1260
Washington, DC 20423-0001

Re Turtle Creek Industrial Railroad, Inc - Discontinuance of Service
Exemption - In Westmoreland County, PA; STB Docket No AB-825 X

Dear Ms. Brown.

Pursuant to the Board's exemption procedures for the discontinuance of rail service over lines with no local business for at least two years (49 C.F.R. §1152.50), enclosed on behalf of Turtle Creek Industrial Railroad, Inc. are an original and ten copies of a verified discontinuance of service notice of exemption.

A check in the amount of \$3,700.00 is enclosed as the filing.

Please acknowledge receipt and filing of this notice of exemption by date stamping the enclosed copy of this letter and return it to the undersigned in the self-addressed, stamped envelope provided for that purpose.

Very truly yours,

FEE RECEIVED RICHARD R. WILSON, P.C.

SEP 18, 2013

**SURFACE
TRANSPORTATION BOARD**

Richard R. Wilson, Esq

Attorney for Turtle Creek Industrial Railroad, Inc

RRW/bah
Enclosures

cc Wayne Norris

FILED

SEP 18 2013

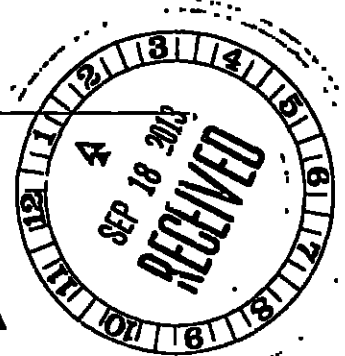
**SURFACE
TRANSPORTATION BOARD**

234834

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-825 X

TURTLE CREEK INDUSTRIAL RAILROAD, INC.
- DISCONTINUANCE EXEMPTION -
IN WESTMORELAND COUNTY, PENNSYLVANIA



EXEMPTION NOTICE

ENTERED
Office of Proceedings

SEP 18 2013

Part of
Public Record

RICHARD R. WILSON, ESQ.
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Attorney for Turtle Creek Industrial
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FEE RECEIVED

SEP 18 2013

SURFACE
TRANSPORTATION BOARD

Dated September 13, 2013

FILED

SEP 18 2013

SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-825

TURTLE CREEK INDUSTRIAL RAILROAD, INC.
- DISCONTINUANCE EXEMPTION -
IN WESTMORELAND COUNTY, PENNSYLVANIA

EXEMPTION NOTICE

INTRODUCTION

Turtle Creek Industrial Railroad, Inc. ("TCIR"), hereby submits a Notice of Exemption pursuant to 49 C.F.R. §1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights), to discontinue service over approximately 9.8 miles of rail line in Westmoreland County, Pennsylvania (the "Line"). In accordance with the Board's regulations at 49 C.F.R. §§ 1152.50(b) and (d), TCIR provides the following information in support of its notice:

Certification: 49 C.F.R. §1152.50(b)

The Line satisfies the criteria for discontinuance under the exemption at 49 C.F.R. part 1152, subpart F. See Verification of Wayne Norris, President of Turtle Creek Industrial Railroad, Inc. attached hereto and made a part hereof as Exhibit A.

Proposed Consummation Date: 49 C.F.R. §1152.50(d)(2)

The subject discontinuance will be consummated on or after the effective date of this Notice of Exemption.

Additional Information Required: 49 C.F.R. §§1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of the applicant (49 C.F.R. §1152.22(a)(1):

Turtle Creek Industrial Railroad, Inc.

Whether applicant is a common carrier by railroad (49 C.F.R. §1152.22(a)(2)):

TCIR is a Class III common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV.

Relief Sought (49 C.F.R. §1152.22(a)(3)):

TCIR is invoking the Board's two-year-out-of-service class exemption procedures to discontinue service over an approximately 9.8 mile line of railroad (the "Line") located in Westmoreland County, PA and extending from milepost 0.9 (near Trafford, PA), to milepost 10.7 (in Export, PA).

Map (49 C.F.R. §1152.22(a)(4)):

A detailed map showing the location of the Line is attached hereto as Exhibit B

Applicant's representative (49 C.F.R. §1152.22 (a)(7)):

TCIR's representative to whom correspondence regarding this discontinuance should be sent to is as follows:

Richard R. Wilson, Esq.
518 N. Center Street, Ste 100
Ebensburg, PA 15931
Tel: (814) 419-8152
Fax: (814) 419-8156

USPS ZIP codes (49 C.F.R. §1152.22(a)(8)):

The Lines within the following U.S. Postal Service ZIP Codes territories: 15085, 15668 and 15632

Rural and Community Impact (49 C.F.R. §1152.22 (c)(4)):

The Line has been dormant for at least two years due to a lack of demand for service, and TCIR anticipates no rural or community impact from the discontinuance of its common carrier obligation. Because the Line has not been used for local rail shipments for over twenty-four (24) months, there will be no effect on regional or local transportation systems and patterns, and no diversion of traffic to other transportation systems or modes will result from TCIR's action.

The informational requirement of section 1152.22(c)(4) (alternative public uses of rail property) is pertinent only where the railroad proposes to *abandon* rail property.¹ Here, TCIC seeks to *discontinue service* over the Line, not abandon it, and for this reason TCIR has no opinion on whether or not the subject rail property might be appropriate for use for other public purposes. Although of questionable relevance here (because the proposed action does not entail abandonment of a rail line), TCIR nevertheless states as follows: TCIR is unaware of any condition that would affect the transfer of title to or the use of the railroad right-of-way for other than rail purposes.

Labor Protection

The interests of affected railroad employees, if any, will be protected by the conditions discussed in Oregon Short Line Railroad – Abandonment Portion Goshen Branch Between Firth & Ammon. In Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Certifications

¹ See, e.g., Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) ("CAGY-Greenwood") ("Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate"), Norfolk Southern Railway Company – Discontinuance Exemption – In Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 ("NS-Mahoning") (STB served March 15, 2007) (same), Chillicothe-Brunswick Rail Maintenance Authority – Discontinuance Exemption – in Livingston, Linn, and Charlton Counties, MO, STB Docket No. AB-1001X, slip op. at 2 n.3 ("CBRA-Livingston") (STB served Feb 23, 2007)(same)

Attached hereto as Exhibit C are the Certificates of Service and Publication pursuant to the notice requirements of 49 C.F.R. §§1105.12 and 1152.50(d)(1). For reasons set forth in the "Environmental and Historic Report" section below, the certification of service requirement at 49 C.F.R. §1105.11 (transmittal of Environmental and Historic Reports) is inapplicable here.

Environmental and Historic Report

A Notice of Exemption to discontinue service over (rather than to abandon) a line of railroad that has been out of service for more than two years does not require the preparation or submission of an Environmental and/or Historic Report.²

Respectfully submitted,



Richard R. Wilson, Esq.
RICHARD R. WILSON, P.C.
Attorney for Turtle Creek Industrial
Railroad, Inc.
518 N. Center Street, Ste. 100
Ebensburg, PA 15931
(814) 419-8152- PHONE
(814) 419-8156- FAX

Dated: September 13, 2013

² See, e.g., Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA, STB Docket No. A13-271X slip op. at 2 n 2 (STB served Nov. 16, 2007) ("Because this is a discontinuance proceeding and not an abandonment, no environmental or historical documentation is required here under 49 C.F.R. §§1105.6(c) and 1105.8(h), respectively"). CAGY – Greenwood at 2 n 2 (same); NS-Mahoning at 2 n 2 (same); CBRA – Livingston at 2 n 3 (same).

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-825

**TURTLE CREEK INDUSTRIAL RAILROAD, INC.
- DISCONTINUANCE EXEMPTION -
IN WESTMORELAND COUNTY, PENNSYLVANIA**

EXEMPTION NOTICE

EXHIBIT A

**CERTIFICATION PURSUANT TO
49 C F R. §1152.50(b)**

COMMONWEALTH OF PENNSYLVANIA)
) ss
COUNTY OF WESTMORELAND)

Wayne Norris
Wayne Norris

Lea A. Brunkhardt
Notary Public



Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-825

**TURTLE CREEK INDUSTRIAL RAILROAD, INC.
- DISCONTINUANCE EXEMPTION -
IN WESTMORELAND COUNTY, PENNSYLVANIA**

EXEMPTION NOTICE

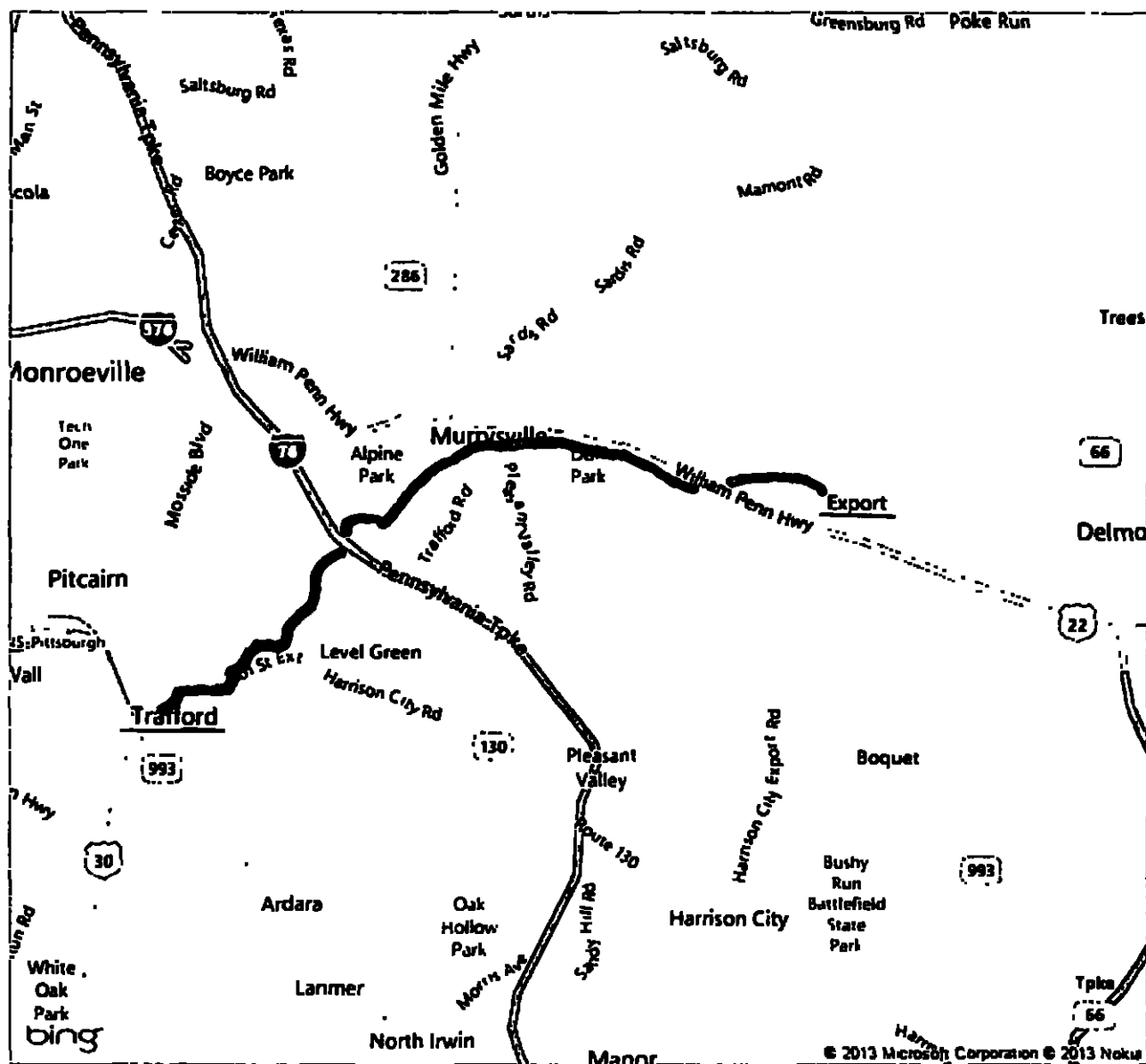
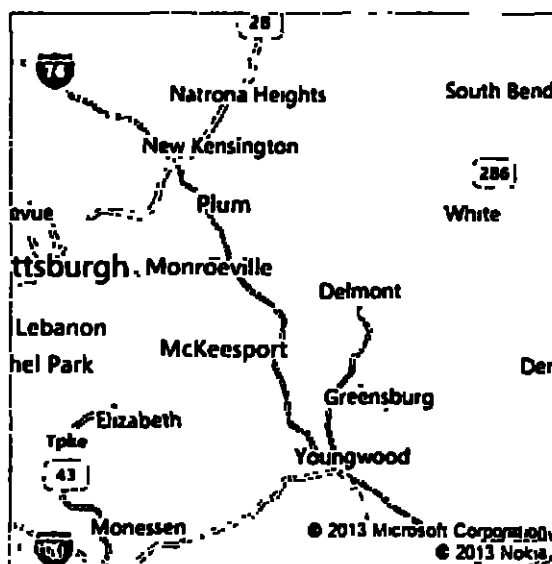
EXHIBIT B

MAP

bing Maps

My Notes

On the go? Use m.bing.com to find maps, directions, businesses, and more



Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-825

**TURTLE CREEK INDUSTRIAL RAILROAD, INC.
- DISCONTINUANCE EXEMPTION -
IN WESTMORELAND COUNTY, PENNSYLVANIA**

EXEMPTION NOTICE

EXHIBIT C

CERTIFICATIONS OF SERVICE/PUBLICATION

Certificate of Service

49 C.F.R. §1152.50(d)(1) – Notice

I hereby certify that Turtle Creek Industrial Railroad, Inc, supplied written notice of its intent to use the Surface Transportation Board's Notice of Exemption procedures to discontinue service over approximately 9.8 miles of rail line located in Westmoreland County, PA. Written notice (a representative copy of which is attached), was served on September 3, 2013, upon the following

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P O. Box 3265
Harrisburg, PA 17105-3265

Charlie Stockman
National Park Service
Rivers & Trails Conservation Program
1201 Eye Street, NW, 9th Floor
(Orig Code 2220)
Washington, D.C. 20005

David Dorfman
SDDC TEA-Railroads for National
Defense
709 Ward Dr., Bldg 1990
Scott AFB, IL 62225

Thomas Tidwell, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, D C 20024

Barry J. Schoch P.E., Secretary
Pennsylvania Department of
Transportation
Keystone Building
400 North Street
Harrisburg, PA 17120




Richard R. Wilson, Esq.

Dated: September 13, 2013

Certificate of Publication

49 C.F.R. §1105.12 – Newspaper Notice

I certify that a "Notice of Intent to Discontinue Rail Service" was published in the form prescribed by the Surface Transportation Board for a Notice of Exemption strictly to discontinue rail service. The Notice was published on September 6, 2013 in the *Greensburg Tribune Review* (622 Cabin Hill Drive, Greensburg, PA 15601), a newspaper of general circulation in Westmoreland County, PA, where the subject Line is located


Richard R. Wilson, Esq.

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-825

**TURTLE CREEK INDUSTRIAL RAILROAD, INC.
- DISCONTINUANCE EXEMPTION -
IN WESTMORELAND COUNTY, PENNSYLVANIA**

EXEMPTION NOTICE

**DRAFT FEDERAL REGISTER
NOTICE OF EXEMPTION**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Docket No. AB-825

Turtle Creek Industrial Railroad, Inc – Discontinuance of Service Exemption - in
Westmoreland County, PA

Turtle Creek Industrial Railroad, Inc ("TCIR") filed on September 13, 2013, a
Verified Notice of Exemption under 49 C.F.R. part 1152 subpart F – Exempt Abandonments
and Discontinuances of Service and Trackage Rights to discontinue service over
approximately 9.8 miles of railroad in Westmoreland County, PA. The subject rail line
extends from milepost 0.9 near Trafford, PA, to milepost 10.7 in Export, PA. The Line
traverses United States Postal ZIP Codes 15085, 15668, and 15632.

TCIR has certified that: (1) no local traffic has moved over the line for at least 2
years; (2) there is no overhead traffic on the line that has been, or would need to be,
rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or
local government entity acting on behalf of such user) regarding cessation of service over the
line either is pending with the Surface Transportation Board (Board) or with any U.S.
District Court or has been decided in favor of complainant within the 2-year period; and (4)
the applicable requirements at 49 C.F.R. §1105.12 (newspaper publication), and 49 C.F.R.
§1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the
discontinuance shall be protected under Oregon Short Line Railroad – Abandonment Portion
Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho, 360

1.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U S C §10502(d) must be filed

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail operations has been received, this exemption will be effective on _____, 2013, unless stayed pending reconsiderations. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for subsidized rail service under 49 C F R §1152.72(c)(2) must be filed by September _____, 2013.¹ Petitions to reopen must be filed by September _____, 2013, with the Surface Transportation Board, 395 E. Street, S.W., Washington, D C 20423-0001

A copy of any petition filed with the Board should be sent to TCIR's representative: Richard R. Wilson, Esq., 518 N. Center Street, Ste 100, Ebensburg, PA 15931.

If the verified notice contains false or misleading information, the exemption is void ab initio

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV".

Decided: _____

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

¹ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600.00. See 49 C.F.R. §1002.2(f)(25). Because this proceeding involves the proposed discontinuance of rail service and not abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 C.F.R. 1105.6(c) and 1105.8(b), respectively.

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-825

TURTLE CREEK INDUSTRIAL RAILROAD, INC.
- DISCONTINUANCE EXEMPTION -
IN WESTMORELAND COUNTY, PENNSYLVANIA

EXEMPTION NOTICE

VERIFICATION

I, Wayne Norris, President of Turtle Creek Industrial Railroad, Inc. ("TCIR") hereby verify under penalty of perjury that to the best of my knowledge the foregoing discontinuance of service notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of TCIR in connection with this proceeding before the Surface Transportation Board

Executed this 13th day of September, 2013


Wayne Norris, President